THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.14780 of 2007

Date: 7th September, 2007

Between :-

Mohd. Youssufuddin .. Petitioner

And

The Regional Passport Officer,
Regional Passport Office,
Secunderabad .. Respondent

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.14780 of 2007

ORDER:-

This Court issued *notice before admission* on 12-7-2007 and *rule nisi* was issued on 6-9-2007.

2. The Writ Petition is filed for a Writ of Mandamus declaring the action of respondent in not receiving the application of the petitioner for making the correction of date of birth in the passport of the petitioner as wholly illegal and arbitrary and consequently direct the respondent to receive the application of the petitioner for correction of date of birth as 4-11-1982 instead of 28-11-1983 in passport No.B 3308943 of the petitioner and to pass such other suitable orders.

3. It is stated that the petitioner recently noticed that his date of birth was wrongly entered in the passport. It is also stated that the actual date of birth of the petitioner is 4-11-1982 which is also evident from the Secondary School Certificate issued by the Board of Secondary Education, Hyderabad, A.P. It is also stated that he had obtained passport during 2001 through an Agent while applying passport inadvertently he has mentioned in the column indicated for date of birth as 28-11-1983 instead of 4-11-1982. It is further stated that noticing the said mistake, the petitioner approached the respondent for

correction of the date of birth. It is also further stated that the respondent instead of receiving his application instructed him to obtain necessary orders from the competent Court. The petitioner also further stated that the Government of India, Ministry of External Affairs issued a circular dt.18-4-2001 clarifying that Passport Issuing Authority after verifying the certificates can affect the correction and therefore, the action of the respondent in not considering the request of the petitioner for correction of date of birth in the Passport is wholly illegal and arbitrary. In such circumstances, it is stated that the petitioner approached this Court for appropriate reliefs.

4. The Circular dt.18-4-2001 reads as hereunder:-

Ministry of External Affairs
(PV-I Section)
Circular

___/401/2/5/2001 *18th April, 2001*

As per the current practice, in case of change of date of birth/place of birth, the applicant is required to produce the original declaratory order from a First Class Judicial Magistrate. However in view of the recent Judgment given by the High Court of Judicature at Mumbai in CWP No.1072 of 2000 filed by Shri Jigar Harish Shah, the following clarifications are issued:

(a) Where an applicant is seeking

rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

Sd//
(Manju)
Under Secretary (PV-I)

All Passport Issuing Authorities

Copy for information to L&T Division, MEA

The learned Counsel placed strong reliance on the decision in ***ALI IMRAN v. REGIONAL PASSPORT OFFICER, SECUNDERABAD***[1] wherein the learned Judge of this Court at paras 3 and 4 observed as hereunder:-

> *"Be it noted that under provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Bombay referred to hereinafter, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the Civil Court.*
>
> *Having regard to the clarification issued by the Government of India, I directed the learned Standing Counsel for Central Government, Sri K.G.Krishna Murthy to produce a copy of the application made by the petitioner for passport in the year 1999. The application is produced before me today. A perusal of the application along with its enclosures reveal that the petitioner enclosed Secondary School Certificate bearing C019604 dated 10-6-1987 which shows his date*

of birth as 28-7-1992. Therefore, it cannot be said that an error has crept in the passport issued to the petitioner. As the petitioner is now placing reliance on the on the birth certificate issued by the Registrar of Births and Deaths, Municipal Corporation of Hyderabad, which shows his date of birth as 28-7-1975, his case does not fall within the guidelines/instructions issued by the Government of India. If the petitioner is so advised, he may have to approach the Civil Court or the authorities under the Education Act seeking necessary correction of date of birth in the Secondary School Certificate and then approach the passport issuing authority. The petitioner's application was rightly not accepted by the respondent."

In ***Mohd.Narsullah Khan v. Regional Passport Officer, Hyderabad***[2] the learned Judge observed at paras 4, 5, 6 and 7 as hereunder:-

"In ***Ali Imran v. Regional Passport Officer, Secunderabad (2003 (4) ALT 474 = 2003 (3) ALD 625,*** *I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the Judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under:*

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the

Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dt.18-4-2001.

Following the Judgment of this Court in ***Ali Imran (referred above)*** *this Writ Petition is also disposed of directing the respondent to consider the application of the petitioner along with the*

Secondary School Certificate No.PC/01/0190544/2 PRIVATE, issued by the Secretary, Board of Secondary Education, Andhra Pradesh, Hyderabad, and to pass appropriate orders in the light of the observations made in the above Judgment. There shall be no order as to costs."

5. In the light of the facts and circumstances and also the Circular referred to supra and the decisions specified above, this Court is inclined to dispose of the Writ Petition directing the respondent to receive the application of the petitioner for making the correction of the date of birth in the Passport and consider the correction to be carried out in the light of the circular and also the views expressed by this Court in the decisions referred to supra in accordance with law within a period of four weeks from the date of receipt of this order.

6. The Writ Petition is disposed of accordingly. No order as to costs.

Justice P.S.Narayana

7th September, 2007
smr

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[1] 2003 (3) ALD 625

[2] 2005(1) ALT 95